IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Ins.APP.No. 73 of 2005()

IC.103/2002 of EMPLOYEES INSURANCE COURT, ALAPPUZHA
.....

APPELLANT/OPPOSITE PARTY.

THE REGIONAL DIRECTOR,
E.S.I.CORPORATION, PANCHADEEP BHAVAN,
THRISSUR 20.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENTS: APPLICANT.

THAJUDEEN, PROPRIETOR,
M/S.KENANA RESTAURANT, ALAPPUZHA.

BY ADV. SRI.AZAD BABU

THIS INSURANCE APPEALS HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

Insurance Appeal No.73 of 2005

Dated this the 13th July, 2007.

J U D G M E N T

The Employees State Insurance Corporation is the appellant. The appellant issued notice to the respondent alleging that he was running a hotel, in which the manufacturing process with the aid of power was going on, and he was employing 11 persons. Overruling the objection raised by the respondent, the demand was made. Therefore, the respondent filed a petition before the Emplolyees' Insurance Court, Alappuzha. The Insurance Court, after considering the evidence, held that there were less than 10 employees working in the hotel, but he was running a provision store also, and other employees were working in the provision store. It also held that as there was no clubbing of these two establishments, the hotel alone was not liable to be covered under the E.S.I. Act, and hence, allowed the application. Challenging that judgment, this appeal is filed.

2. Exts.P1 to P4 registers show that the respondent was running a hotel. Ext.P9 series are the receipts, which reveal that the respondent was the licensee of a provision store. The evidence

on record also reveal that he started the provision store by availing loan from the State Bank of India, Alleppey Branch, and he was running two establishments, hotel and provision store. These two establishments cannot be clubbed together. The hotel alone is not liable be covered under the E.S.I. Act. Therefore, the judgment passed by the Employees' Insurance Court, in I.C.No.103/2002, is correct, and does not call for any interference. No question of law arises in this appeal. The appeal is only to be dismissed.

In the result, the appeal is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.